

**Sun Chevrolet, Inc., d/b/a Sun Oldsmobile, Inc.,
and Sun Chevrolet, Inc. and Automobile Me-
chanics Local 701, International Association of
Machinists and Aerospace Workers, AFL-CIO.**
Cases 13-CA-31324 and 13-CA-31325

March 2, 1994

SUPPLEMENTAL DECISION AND ORDER

**BY CHAIRMAN STEPHENS AND MEMBERS
DEVANEY AND TRUESDALE**

On March 9, 1993, the National Labor Relations Board issued a Decision and Order,¹ *inter alia*, ordering Sun Chevrolet, Inc., d/b/a Sun Oldsmobile, Inc. and Sun Chevrolet, Inc., Chicago, Illinois, the Respondent, to make all required contributions to the welfare and pension funds that have not been made since May 20, 1992, and make whole unit employees for any losses suffered as a result of the Respondent's failure to make such contributions, in violation of the National Labor Relations Act. On July 9, 1993, the Court of Appeals for the Seventh Circuit entered its judgment enforcing in full the backpay provisions of the Board's Order.

A controversy having arisen over the amounts due, on October 4, 1993, the Acting Regional Director for Region 13 issued a compliance specification and notice of hearing alleging the amount due under the Board's Order, and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By letter dated December 23, 1993, the Respondent was advised that it had failed to file an answer to the compliance specification, and that unless an appropriate answer was filed by January 5, 1994, summary

judgment would be sought. The Respondent filed no answer.

On February 7, 1994, the Acting General Counsel filed with the Board a motion to transfer case to the Board and for Summary Judgment, with exhibits attached. On February 10, 1994, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent again filed no response. The allegations in the motion and in the compliance specification are therefore undisputed.

Ruling on Motion for Summary Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that the respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) of the Board's Rules and Regulations states:

If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Summary Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the General Counsel's Motion for Summary Judgment. Accordingly, we conclude that the amounts due the Union's Health and Welfare and Pension Funds are as stated in the compliance specification and we will order payment by the Respondent of said amounts, plus penalties and interest accrued on said amounts to the date of payment.

¹ 310 NLRB No. 103 (not reported in Board volumes).

ORDER

The National Labor Relations Board orders that the Respondent, Sun Chevrolet, Inc., d/b/a Sun Oldsmobile, Inc. and Sun Chevrolet, Inc., Chicago, Illinois, its officers, agents, successors, and assigns, shall make whole the employees and pay all delinquent contributions to the Union's Health and Welfare and Pension Funds by payment to the entities the sums listed below, plus penalties and interest accrued to the date of payment:

Sun Chevrolet, Inc.

Union and Industry Welfare Fund	\$1,140.00
plus penalties	114.00
Union and Industry Pension Fund	\$450.00
plus penalties	100.00

Sun Oldsmobile, Inc.

Union and Industry Welfare Fund	\$2,540.00
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plus penalties	314.00
Union and Industry Pension Fund	\$1,010.00
plus penalties	300.00

Dated, Washington, D.C. March 2, 1994

James M. Stephens,	Chairman
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Dennis M. Devaney,	Member
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John C. Truesdale,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD